

DEPENDENCY (JUVENILE COURT CASES ONLY)

1

To File a Dependency Petition (Instructions Packet)

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JUVENILE COURT - DEPENDENCY PAPERS (Instructions Only)

This packet contains general information and/or instructions and procedures about filing a Dependency Petition and other court papers in Juvenile Court. The documents should appear in the following order:

Order	File Number	Title	# Pages
1	JVD1it	Table of Contents (this page)	1
2	JVD10h	Dependency vs. Guardianship: Important Information You Need to Know	3
3	JVD11p	Procedures: How to file a Dependency Petition	2
4	JVD11i	Instructions: How to fill out the Dependency Petition and other court papers.	3

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DEPENDENCY vs. GUARDIANSHIP

IMPORTANT INFORMATION YOU NEED TO KNOW

Both dependency and guardianship may result in a person being appointed as a “guardian” for a minor (or minors), but there are important differences between Dependency and Guardianship. **THE FORMS IN THIS PACKET CAN ONLY BE USED TO FILE A DEPENDENCY PETITION. READ CAREFULLY** below to understand some of the differences between Dependency and Guardianship and to make sure you are filing the petition most appropriate for the situation, both yours and that of the children involved.

In Maricopa County, both Juvenile Dependencies and Juvenile Guardianships (or “Guardianship for Minors”) are filed with the Juvenile Division of the Superior Court. If you decide that you need to file for guardianship, forms and instructions to file for guardianship are available for purchase at the Self-Service Center or may be downloaded for free from the internet at: www.superiorcourt.maricopa.gov/ssc

1. **Dependency vs. Guardianship.** What is the difference between dependency and guardianship?

- A. Dependency:** You may file a dependency petition if you believe that there is no parent or guardian willing or able to provide proper care and control over a child.

Examples include:

- child is abused or abandoned
- child is neglected because parent or guardian abuses drugs or alcohol
- parent or guardian is not able to meet the child's needs
- parent or guardian is unable to provide the child with basic necessities such as suitable housing, food or necessary medical care.

- B. Guardianship:** A guardianship can be filed when someone other than the parent wants to be appointed by the court to take over parental responsibilities *and* neither living parent (whose parental rights have not been severed [terminated or cut off] by court order) will file papers or go to court to oppose the appointment. Guardians take over parental responsibilities for making decisions regarding housing, medical care, and education, among other things, for as long as the guardianship lasts.

2. **Filing a Dependency Petition is a Lawsuit**

Once you file the Dependency Petition, you have started a lawsuit. The Petition is processed by the Court according to the laws and Court rules that apply. The rights of all parties are protected, and it is your responsibility to comply with all Arizona Statutes and Rules of Court, which are available at most libraries.

A judicial officer (judge or commissioner) will review your Petition. If your Petition does not meet the requirements of the law, it will be dismissed and you will be notified of the dismissal.

3. Court-Ordered State Involvement

The Court may order a separate investigation into the facts of the case. The Arizona Department of Economic Security/Child Protective Services, from here on called CPS, will be ordered to complete the investigation and file a report with the Court. CPS may also become a part of the case, which means providing services to the family (for example, counseling) and the supervision of the child or children for whom a Dependency is ordered becomes the State's responsibility as well as that of the person named as the guardian in a dependency proceeding.

4. Appointment of Counsel

Filing a Dependency Petition does not mean the Court will assign you a free lawyer. It is your responsibility to either represent yourself, or hire your own lawyer. The Court may appoint an attorney for the child(ren) involved. If the child(ren)'s parents ask for an attorney and the Court determines they cannot afford one, the Court may appoint an attorney for the parents.

5. Definitions

A. Dependency. A dependency is a decision by the Juvenile Court that a child is in need of effective care and control and that the parents are unable or unwilling to provide proper care and control. Usually, a Dependency Petition is filed by the state because concerns about abuse or neglect have been reported to CPS and there is evidence of immediate danger to the child(ren). The parents may disagree with you filing a Dependency Petition to obtain legal custody of their child(ren).

A Dependency Petition may involve an investigation and report by CPS. It may also involve appointing attorneys for the parents and the child(ren), a temporary custody hearing, and possibly a pretrial conference and trial. If the Juvenile Court finds that the child is dependent because the parents are unable or unwilling to provide care, the court decides who will care for the child(ren). The Juvenile Court and CPS oversee the child(ren)'s care and services provided to the parents and the child(ren) in an effort to reunite the family.

A dependent child remains under the Court's control until the Court declares that a parent has become willing and able to provide proper parenting. An order of dependency from the Juvenile Court will last until the child turns 18, or the court changes or dismisses it.

B. Guardianship. An adult may ask the Juvenile Court to appoint a legal guardian for a child when neither parent is going to be available (such as when the parents are to be deployed by the military, or perhaps the custodial parent is or is going to be incarcerated or in re-hab, etc.), or is incapable or unwilling to provide for the child, and who after receiving notice of the Petition for appointment of a Guardian, will either give permission for the guardianship, *or at least will not go to court to object or disagree*. If either parent files papers with the court or shows up in court to object to a guardianship, it will not be granted.

An order of guardianship is good until the Court changes or dismisses it, the child turns 18, or either parent files papers to terminate the guardianship. Guardianship is based on the

parents' permission, or at least their failure to object to the guardianship. If *either* of the parents later changes his or her mind and lets the Court know that he or she objects to the guardianship, the Court has no choice but to end the guardianship, but may refer the matter for investigation as to whether a Dependency is needed.

A NOTE ABOUT "CONSERVATORSHIP": A minor generally needs a **conservator** if:

- The minor owns money or property or has annual income in excess of \$5,000 that requires management or protection, which cannot otherwise be provided.
- The minor has business affairs or assets which may be jeopardized (at risk of loss or damage) by his or her being a minor; and/or
- The Minor needs funds for his or her support and education and protection is necessary or desirable to obtain or provide those funds.

Conservators are appointed and supervised by the **Probate Division** of the Superior Court. If the minor needs both a guardian and a conservator, then the entire matter is handled by the Probate Court and the Petition is submitted to the Probate Court and **not** to Juvenile Court.

A NOTE ABOUT "CUSTODY": Most people are more familiar with the term "custody" than either "dependency" or "guardianship". Arizona law (**Arizona Revised Statutes [A.R.S.] § 25-415**) allows for someone who stands "in loco parentis" (in the place of a parent) to the children, meaning someone who has been like a parent with whom the children have had a longstanding relationship, to file for custody. This is sometimes referred to as "third party custody", and may be used by relatives and non-relatives alike who meet all the requirements of the statute.

Currently the Self-Service Center **only** has forms and instructions for the biological or adoptive parents to file for custody, which is handled in the Family Court division of the Superior Court. Those forms and instructions **will not work** for persons other than the parents who wish to file for custody. Only an attorney can advise you as to whether there are advantages or other reasons you should consider applying for "custody", as opposed to "guardianship" or "dependency", and draft the papers for you or alter existing forms to fit your needs.

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PROCEDURES: HOW TO FILE A DEPENDENCY PETITION

These procedures are designed to help you prepare a Dependency Petition and file it with the Clerk of the Court.

STEP 1: Prepare the Court Papers. Complete the enclosed Juvenile Court Cover Sheet, Dependency Petition form and the Notice of Hearing form. Make sure you follow the instructions that go with the forms and carefully read and complete each section of these forms.

STEP 2: Go to the Correct Juvenile Court Facility. You can file a Dependency Petition at either Juvenile Court Center Facility:

Durango Juvenile Court Facility
3131 West Durango Street
Phoenix, Arizona 85009
Telephone: 602-506-4041

OR

Southeast Juvenile Court Facility
1810 South Lewis Street
Mesa, Arizona 85210
Telephone: 602-506-2850

Dependency Petitions are accepted for filing at either Juvenile Court. However, you are encouraged to present your documents for filing at the Juvenile Court where your case is assigned to **avoid delay**.

The case will be assigned to one of the Juvenile Court's listed above based upon the zip code of the residence of the custodial parent of the child(ren) at the time the child(ren) is/are removed from the home, or if not removed from the home, at the time of the filing of the Dependency Petition. If the zip code is any of the following, the case will be assigned to the Southeast Juvenile Court Facility.

85200 through and including 85299
85012 85016 85020 85024 85032 85331
85014 85018 85022 85028 85044 85337

All other zip codes are assigned to the Durango Juvenile Court Facility.

STEP 3: File your Court papers with the Correct Juvenile Court Facility.

A. FEE. There is no fee for filing a Dependency Petition.

B. GIVE YOUR COURT PAPERS TO THE CLERK OF COURT AT THE CORRECT JUVENILE COURT FACILITY. You must present the original Juvenile Cover Sheet, Dependency Petition and Notice of Hearing plus one copy of each of these documents to the Clerk. The copies will be returned to you for you to make copies for the individuals you will need to serve. This will include the parents, guardians, and any custodians of the child(ren). You may also need a copy for Child Protective Services, if ordered by the Court to provide one to them. You will need to either pick up the copies or provide a 9 inch x 12 inch, self-addressed, stamped envelope for them to be mailed to you.

The Clerk will assign a case number that begins with "JD", and a Judicial Officer will review the document. This process will take more than a day. If you believe the matter is an emergency situation and you are requesting some immediate action by the Court,

tell the Clerk. Even in an emergency situation, it may not be possible for you to personally wait for the Court's decision.

If the Judicial Officer decides that the Petition meets all legal requirements, a hearing will be scheduled **within 21 days** of the date of the filing of the Petition.

The Court will provide you one free copy of the Judicial Officer's **signed Order** concerning the Dependency Petition. Your copy of this Order is very important to you in completing the next major step of the dependency process -- Service of Process.

STEP 4: SERVICE OF PROCESS. Service of Process means letting the parents and anyone else entitled to know that you have filed the Dependency Petition, and the Court hearing has been set. **A child will not be made a permanent ward of the court until service is complete.**

Service of Process means providing a copy of the Dependency Petition, Notice of Hearing and Order to the parents or guardian of the child. You do not have to serve the Juvenile Cover Sheet. **You must provide service at least five (5) calendar days prior to the hearing.**

Follow the instructions in the Self-Service Center Packet entitled Service of Process regarding the type of service that applies to your case: 1) You know where the other party lives in the State of Arizona; 2) You know where the other party lives in the United States, but not in Arizona; or 3) You don't know where the other party lives and you have tried to find them.

STEP 5: ATTEND THE COURT HEARING. Once these steps have been completed, you must attend the court hearing on the date given to you in the Notice of Hearing.

If you need a language interpreter for the court hearing, please contact the Juvenile Court Interpreter's Office at 602-506-4086 if the hearing is at the Durango facility or 602-506-2653 if the hearing is at the Southeast facility in Mesa.

LEGAL REPRESENTATION. If you still have questions about filing a Dependency Petition, you should ask a lawyer for legal advice.

- You can find a lawyer by looking under "ATTORNEYS" in the Yellow Pages.
- You may also contact the Lawyer Referral Service of the Maricopa County Bar Association. Their telephone number is 602-257-4434. You should request an appointment with an attorney who handles Juvenile Court dependency matters. There is a fee of \$35.00 for a half-hour consultation.
- The Self-Service Centers have a list of lawyers who can give you legal advice and who can help you on a task-by-task basis for a fee, and a list of court-approved mediators as well. You may view the lists at the Self-Service Centers, or on the Superior Court website at: <http://www.superiorcourt.maricopa.gov/ssc/provider/lawyers.asp>
- You may be able to qualify for a free attorney consultation through the Volunteer Lawyers Program. This is based on your income. You may call 602-258-3434, ext. 1 for a phone eligibility interview.

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INSTRUCTIONS: HOW TO FILL OUT THE DEPENDENCY PETITION AND OTHER COURT PAPERS

Use these instructions to fill out the Juvenile Court Cover Sheet, Dependency Petition, and the Notice of Initial Dependency Hearing.

JUVENILE COURT COVERSHEET:

Print or type in black ink.

Case Type: Check only one box that matches the legal procedure for which you are filing the documents in this packet.

Information About the Petitioner: Write in the information requested about you, the person filing the dependency petition. If some of the information does not apply, for example you do not have an email address, write "None" or "N/A" (for "Not Applicable") in that space. If a lawyer represents the Petitioner, you must also write in the lawyer's name and bar number.

Information About the Minor Children Involved in this Case: List the information requested for any minor children involved in this specific case.

Information About the Mother and the Father of the Child(ren) Involved in this Case: Write in the information requested about the child(ren)'s mother and father. Write "Unknown" if you do not know the answer or "None" or "N/A" if the question does not apply..

Also write in the name(s) of the child(ren) involved in this case who are connected with *this* father. If there is more than one father involved in this case, go to page three (3) of this Family Court Cover Sheet and list them in the space provided. Please make sure you show which children are connected to each father.

Other Minor Children: If there are any other children who are brothers or sisters of the children listed earlier, please list their names, dates of birth, and social security numbers on the lines provided.

Other Adults: If there are any adults over the age of 18 who live in the same home as any children listed on this Family Court Cover Sheet, please list their names, dates of birth, and social security numbers on the lines provided.

Other court cases: Check the appropriate box to tell this Court if either you or your spouse have been involved in any other cases, except a minor traffic offense, in any other court. If you check the Yes box, please describe the case, including case numbers and court location.

Domestic Violence Section: Answer the questions listed regarding domestic violence. This information will help court staff determine if this issue is relevant to this case.

Children's Issues Section: Answer the questions regarding the children you listed on the Family Court Cover Sheet. This information will help court staff determine if these issues are relevant to this case, and/or whether a case exists in this Court already regarding any child you listed.

Tribal Information: If any of the parents listed on this Family Court Cover Sheet are Native American, please check the Yes box and list which tribe the person belongs to and a contact name and phone number.

Location: Check the appropriate box to indicate whether you are filing these papers at the Mesa or Durango (Phoenix) Juvenile Court location. .

DEPENDENCY PETITION:

Case Caption:

If you are the person filing the Dependency Petition, write in your name, your address, your city, state, zip code, and telephone number. If an attorney represents you, write in your attorney's bar number.

Then, write in the name of each child under the age of 18 that you believe is dependent and is the reason you are filing the Dependency Petition. Leave the Case Number blank. The Clerk of the Court will stamp in the case number when you file the documents with the Court.

Paragraph 1:

INFORMATION ABOUT ME: Write in your name, your address, your telephone number (include your work, home and message telephone number if you have one). Then, write in your relationship to the child(ren). If you do not believe you are a fit and proper person to care for the child(ren), you should see a lawyer for help.

Paragraph 2:

INFORMATION ABOUT THE CHILD(REN): Write in the name of each child that you want to include in the Dependency Petition, his or her birth date, sex and address. The names should be the same as the child(ren)'s name in the Case Caption.

Tribal Information: If any of the children for whom you are seeking a dependency are Native American, please check the "Yes" box and list which tribe.

Paragraph 3:

INFORMATION ABOUT THE PARENTS OR CURRENT LEGAL GUARDIANS OF THE CHILD(REN): Write in the name of the child(ren)'s parents or current legal guardians, write in the relationship to each child, and the address of the parent or guardian.

Paragraph 4:

CHILD'S CURRENT LIVING ARRANGEMENT. Write in the name of the person the child is currently living with, the relationship to the child, and the address of the person. Write in how long the child(ren) has/have been living there. Then, check the box yes or no as to whether the child(ren) is living in the State of Arizona, Maricopa County. If you checked the "no" box, you should see a lawyer for help before filing the Dependency Petition.

Paragraph 5:

CHILD IS DEPENDENT. You must tell the court why you are filing the Dependency Petition. It is important to give the Court specific, factual and recent information. You must show that the actions or inactions of both the mother and father have a harmful effect on the child(ren). Give a brief history of the child(ren)'s life and your involvement with the child(ren). Give professional opinions, if possible. Include drug and alcohol use if relevant. If the child(ren) have different fathers, you must show that each child is dependent as to his or her own father. If the father is unknown, you must state that.

Paragraph 6: **PERSONS WITH KNOWLEDGE ABOUT THE ALLEGATIONS.** Write in the name, address, telephone, and relationship of any individuals who have information about this matter.

Paragraph 7: **DOCUMENTS.** Attach copies of any documents that support your statement and list the documents in the space provided. Examples of documents include: criminal records, police reports, drug tests, medical records, teachers' reports, and affidavits.

RELIEF REQUESTED: Tell the Court what orders you want the Court to issue.

AFFIRMATION AND VERIFICATION: The Dependency Petition should be signed before a Deputy Clerk of the Court or a notary public before being presented to the Clerk's Office,. You will need to show photo identification.

NOTICE OF INITIAL DEPENDENCY HEARING: Fill in the Case Caption just like you did for the Dependency Petition. Copy the case number from the Dependency Petition. Then write in your name where it says "Name of Petitioner." The Court will fill in the date of the hearing, the time and location of the hearing, and the name of the judicial officer who will hear the case. You will then need to date and sign the Notice, **and have it served on the other parties involved** according to the instructions in the Service Packet that applies to your case. Remember, that all documents must be served at least five (5) days prior to the court hearing.